



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Loonett Saltonstall Building,

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September 23, 1983

You represent a religious commune, with a community treasury, which operates a trade or business for the support of its members. The organization is qualified under Internal Revenue Code Section 501(d). You inquire as to the Massachusetts tax status of the organization, which returns it should file and the income tax treatment of the members on their shares of distributive income.

A religious association with a common treasury which engages in business for the benefit of its members is exempt from federal income taxation if its members include in their gross income their entire pro rata shares of the association's taxable income for the year whether distributed or not. Any amount so included in a member's income is treated as a dividend received. (I.R.C. §§ 501(a), 501(d)). The organization is required to file a federal partnership return (Form 1065) reporting its business income and the distributive shares of its members. (U.S. Treas. Reg. § 1.6033-1(a)(5)).

Massachusetts gross income is federal gross income determined under the Internal Revenue Code, as amended on February 1, 1983, with certain modifications not here relevant. (G.L. c. 62, §§ 1(c), 2).

Massachusetts gross income is divided into two classes. Part A gross income, taxable at 10%, consists of dividends, capital gain and certain interest. Part B gross income, taxable at 5%, consists of the remainder of Massachusetts gross income. (G.L. c. 62, § 2(b)).

September 23, 1933

A "dividend" is any item of federal gross income which is a dividend under Code Section 316 or which is treated as a dividend under any other provision of the Code. (G.L. c. 62, § 1(e)).

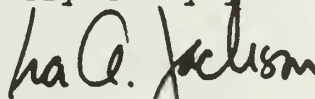
Partnerships, as such, are not subject to Massachusetts income taxation. The individual members of the partnership are subject to taxation on their distributive share of partnership income. (G.L. c. 62, § 17). Partnerships are required to report their income and the distributive shares of their members on an information return. (G.L. c. 62C, § 7).

Based on the foregoing, it is ruled:

1. A religious organization described in I.R.C. § 501(d), which is exempt from federal income taxation under I.R.C. § 501(a), is not subject to Massachusetts income tax, but must file a Massachusetts partnership return (Form 3) reporting its business income for each taxable year and each member's distributive share of that income.

2. Each member's pro rata distributive share of the organization's income is includible in his Massachusetts gross income as Part A income and is taxable to him as a dividend received.

Very truly yours,



Commissioner of Revenue

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